

# EXHIBIT 39



June of 2019 and I plan on returning in September of 2019.

3. In 2010-2012 I visited new Mancos Shale wells being drilled adjacent to U.S. Highway 550, San Juan County Road 7900, and amongst the communities of Nageezi, Counselor and Lybrook, New Mexico. I visited over 150 Williams Production Company (WPX), Encana and Logos wells being drilled and developed in the Mancos Shale/Gallup Formation area of concentration since 2010. Among the specific well units and sites I have visited include Encana Lybrook, Gallo Canyon Unit and Escrito wells; and WPX Chaco unit wells. In addition, I have visited connecting pipeline right-of-ways for these wells including alignments for Chaco Trunk pipelines (including Trunk 1, Trunk 3 Extension 3, Trunk 3 Extension 4) and the Saddle Butte/Pinon pipeline.

4. At these well sites, I have seen drilling, flaring, hydraulic fracturing, nitrogen treatment, fracking trucks, sand delivery trucks, chemical storage and an endless stream of activity including pipeline connection, compressors and road use. What was once a pristine and quiet area quickly became an industrialized zone by 2015, adversely impacting communities in the way. These new Mancos Shale wells are huge (5 acres), require flaring, are drilled horizontally, and are hydraulically fractured with nitrogen and other chemicals – all departures from the type of historic oil and gas activity that had occurred in the past in this area. In 2015, a film crew included me in their video explaining new impacts to the area: *Piñon Pipeline Endangers Chaco's Ancient Heritage*, available at: <https://www.youtube.com/watch?v=MAuS1XUhqVM>. The pipeline was specifically being planned to further facilitate Mancos Shale oil development in the area. I believe that this video provides evidence that I have physically been at the Mancos Shale development area in Lybrook, Nageezi and Counselor and that any attempts to dismiss my participation in standing are misguided and wrong.

5. As of 2019, approximately 400 Mancos Shale wells drilled in the Lybrook, Nageezi and Counselor area have overwhelmed the landscape, industrializing the area. The area has never been adequately analyzed under the National Environmental Policy Act (NEPA) for cumulative impacts. In addition the Bureau of Land Management (BLM) has failed to adequately conduct consultations on Mancos Shale drilling and operations under the National Historic Preservation Act (NHPA). In fact, when local tribes (including Hopi and Navajo) and local communities (including Navajo Chapters) asked for a moratorium on Mancos Shale oil and gas development, they were ignored by the BLM and continue to be ignored to date.

6. I am aware that BLM announced in 2014 that a RMP Amendment (RMPA)/Environmental Impact Statement (EIS) is being prepared to evaluate the impacts from Mancos Shale/Gallup Formation oil and gas development. I understand that this RMPA/EIS is needed before Mancos Shale/Gallup Formation oil and gas development can occur, and that the agency's current 2003 RMP never contemplated or analyzed oil development in the greater Chaco area as required by NEPA. I also note that BLM has the responsibility to manage resources under the Federal Land Policy and Management Act.

7. I have participated in numerous meetings with the BLM from 2009-2012 and 2014-2015, to help identify impacts to the greater Chacoan landscape and to better understand BLM management of public lands as they occur within this landscape. I have participated in recent meetings in 2019 as a Consulting Party under the NHPA. As of July 2019, the RMPA/EIS for the Mancos Shale/Gallup Formation has still not been completed. We have waited for BLM and Bureau of Indian Affairs to complete this RMPA/EIS to no avail. Consultations for Section 106 of the NHPA remain incomplete.

8. I have flown over the Mancos Shale development area at least once a year since 2008 through organizations including Ecoflight and CAVU. I have observed that dirt roads throughout the region are being used for staging and travel by oil and gas trucks in the Mancos Shale field and that the Mancos Shale development has taken over the landscape. The flaring of the natural gas from the Mancos Shale oil wells has been very visually apparent from the air, representing waste, pollution and lost revenue/royalties. Compressors being placed on the well sites in the Nageezi, Counselor and Lybrook areas represent significant noise, public health and emissions impacts.

9. I think it is disgraceful that the Federal government has allowed this reckless Mancos Shale drilling and development to crowd out the landscape and communities in the area of development. If allowed to continue unabated, the oil gas activity will certainly compromise the entire Chaco CNP area and marginalize visiting the area. My experiences in the area have already been compromised by fumes, health and safety impacts including reckless truck travel, exploding wells, and mismanagement of public lands. I no longer feel safe traveling with my family in the area impacted by Mancos Shale drilling and operations.

10. In July of 2016, WPX had a major explosion in Nageezi on a producing well pad adjacent to families, homes and U.S. Highway 550. The chemicals stored on the site blew

up and, apparently without an adequate emergency plan in place by WPX, the fire burned for days. BLM disavowed all responsibility for the fire response. This was documented in several new stories/write-ups including one where I was quoted:

[https://www.ecowatch.com/massive-fracking-explosion-in-new-mexico-](https://www.ecowatch.com/massive-fracking-explosion-in-new-mexico-1919567359.html)

[1919567359.html](https://www.ecowatch.com/massive-fracking-explosion-in-new-mexico-1919567359.html). I now fear that there will be more explosions, contamination, toxicity, death and sickness, health and safety as long as Mancos Shale development is allowed to proceed unimpeded and unanalyzed. My health and safety is at risk by being exposed to these problems while pursuing my right to visit heritage and public areas that are being industrialized by oil and gas development. I no longer feel that it is safe to bring my children anywhere near the industrialized Mancos Shale zone – it's only a matter of time before another well explosion occurs and wipes out U.S. Highway 550. It's beyond sad that we can't protect local communities from the onslaught of oil and gas and that we don't even have the fortitude as a society to preserve the Greater Chaco landscape, our heritage and history.

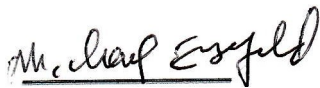
11. I believe BLM's ongoing approval of Mancos Shale APDs without a finalized RMPA/EIS—and thus no analysis of cumulative and connected actions—represents uninformed decision-making that threatens to irreparably harm my family and me. I do not believe the Secretary of the Interior has the authority to allow development that threatens the congressionally designated Chaco Culture NHP, Aztec Ruins National Monument, and outliers under the Chaco Outliers Protection Act, which threaten to be destructured by BLM actions, including through the authorization of wells, pipelines, roads, flaring and proliferation of compressors. BLM's APD authorizations also compromise my experience of visiting the greater Chaco area by impacting the visual landscape, night sky, solitude and quiet, as well as public health and safety.

12. On May 7, 2019 the U.S. District Court for the 10<sup>th</sup> Circuit reversed a 2018 U.S. District Court for the District of New Mexico on a case brought forth by Diné Citizens Against Ruining Our Environment, the San Juan Citizens Alliance, WildEarth Guardians, the Western Environmental Law Center, and the Natural Resources Defense Council. The Appeals Court held the Bureau of Land Management failed to comply with federal law because it failed to account for the cumulative impacts of fracking in the Greater Chaco, including the impacts of nearly 4,000 new oil and gas wells, and failed to address the impacts of water use associated with fracking. The court ruled, "We conclude that the 3,960 horizontal Mancos Shale wells predicted in the 2014 RFDS [reasonably foreseeable development scenario] were reasonably foreseeable after the 2014 RFDS issued. The

BLM therefore had to consider the cumulative impacts of all 3,960 wells when it conducted its site-specific EAs [environmental assessments]." I am concerned that BLM has failed to comply with cumulative impacts analysis and is continuing to permit APDs through Environmental Assessments without an RMPA/EIS.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed at Farmington New Mexico on August 1, 2019

A handwritten signature in black ink, appearing to read "Michael Eisenfeld", written over a horizontal line.

Michael Eisenfeld